

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

July 20, 2000

DIVISION ONE

B128917 People
v.
McDuffy

Filed order denying petition for rehearing.

DIVISION TWO

B132653 People (Not for Publication)
v.
Perez

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
 Cooper, J.

B130020 Behzadi (Not for Publication)
v.
Interinsurance Exchange, Auto Club of So. Calif.

The judgment is reversed, and the matter is remanded to the trial court for further proceedings consistent with this opinion. Costs to appellant.

Mallano, J. (Assigned)

We concur: Nott, Acting P.J.
Cooper, J.

July 20, 2000-Continued

DIVISION TWO (Continued)

B129972 People (Not for Publication)
v.
Jimenez

The judgment is affirmed.

Mallano, J. (Assigned)

We concur: Boren, P.J.
 Nott, J.

B133543 People (Certified for Publication)
v.
Jones

The judgment is modified to reflect (1) a stayed enhancement of four months pursuant to Penal Code section 12022, subdivision (b) (1) as to count 8, and (2) the award of presentence custody credits of 422 days. In all other respects, the judgment is affirmed.

Boren, P.J.

We concur: Cooper, J.
Mallano, J. (Assigned)

DIVISION THREE

B134402 People (Not for Publication)
v.
Elizabeth W.

The order of wardship is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

DIVISION THREE (Continued)

B126613 People (Not for Publication)
v.
McQueen

The judgment is affirmed.

Aldrich, J.

We concur: Croskey, Acting P.J.
 Kitching, J.

B128927 People (Not for Publication)
v.
Verduzco

The judgment is affirmed.

Kitching, J.

I concur: Aldrich, J.
I dissent: Croskey, Acting P.J. (Opinion)

B132837 People (Not for Publication)
v.
Oliver

The judgment is affirmed.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

[illegible]

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

B131526 People (Not for Publication)
v.
Robinson

The judgment is affirmed, except that it is modified by awarding appellant an additional 39 days conduct credit pursuant to Penal Code section 4019. The trial court is directed to amend: (1) its April 7, 1999 minute order to reflect that appellant was convicted of a violation of Health and Safety Code section 11357, subdivision (c), not subdivision (a), and, (2) that minute order and the abstract of judgment to reflect that, for his conviction for a violation of Health and Safety Code section 11357, subdivision (c), he was ordered incarcerated for 10 days, not 180 days. The trial court is also directed to amend the abstract of judgment to reflect the above conduct credit award. The trial court is further directed to forward a copy of the amended abstract of judgment to the Department of Corrections.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION THREE (Continued)

[illegible]

The order under review is affirmed, except that it is modified by increasing appellant's maximum theoretical period of confinement by two years, resulting in a maximum theoretical period of confinement of five years. The September 14, 1999 minute order is modified to reflect: (1) "Minor may not be held in physical confinement for a period to exceed 5 yrs," instead of "Minor may not be held in physical confinement for a period to exceed 3 yrs," and (2) "Offense is declared to be a felony (count(s) 1&2, 626.9B&F1 P.C.&/12101A1 P.C.)," instead of "Offense is declared a felony (count(s) 1&2, 626.10A P.C.&/12101A1 P.C.)."

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

[illegible]

The judgment is affirmed.

Croskey, J.

We concur: Klein, P.J.
Kitching, J.

133605 Hasan Budak (Not for Publication)
v.
Oksana Sivak

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, J.

We concur: Klein, P.J.
Aldrich, J.

DIVISION THREE (Continued)

B122646 Stevedoring Services of America (Not for Publication)
 v.
 State Compensation Insurance Fund

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B118849 The Ad-Sert Group, Inc. (Not for Publication)
B123358 v.
 Gulf Insurance Company et al.

The judgment is affirmed. Gulf and TVD shall recover their respective costs on appeal.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B129190 Arthur Newman et al. (Not for Publication)
 v.
 Ida Newman

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, J.

We concur: Klein, P.J.
 Kitching, J.

DIVISION THREE (Continued)

B132455 Aurora Gonzalez et al. (Not for Publication)
 v.
 K.V. Mart Co.

The judgment is affirmed. Respondent(s) to recover costs.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

B139370 Farmers Insurance Exchange et al. (Not for Publication)
 v.
 Superior Court, Los Angeles County
 (James Butler and Mark Higgins, r.p.i.)

The petition for writ of mandate is granted. The trial court is ordered to vacate its order denying Farmers' motion for summary judgment or summary adjudication and enter a new order granting Farmers' motion for summary judgment. Costs are awarded to Farmers.

Croskey, Acting P.J.

We concur: Kitching, J.
 Aldrich, J.

DIVISION FOUR

B118501 People
 v.
 Flowers et al.

Filed order denying petition for rehearing.

July 20, 2000-Continued

DIVISION FOUR (Continued)

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The judgment is affirmed.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

DIVISION FIVE

B136903	Retirement Housing Foundation v. Nationsbank, N.A. (Carolinas)	(Not for Publication)
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The judgment is affirmed. Respondent(s) to recover costs.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B135229 People (Not for Publication)
v.
Robert Johnson

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
Godoy Perez, J.

DIVISION FIVE (Continued)

[illegible]

The judgment is affirmed.

Grignon, J.

We concur: Turner, P.J.
 Armstrong, J.

B130688 People (Not for Publication)
v.
Leon Broomfield

The conviction for cocaine base possession and the finding defendant was previously convicted of two serious and violent felonies and served one prison term is affirmed. The findings that defendant committed the two alleged prior violent or serious felony convictions discussed in the body of this opinion are reversed. The cause is remanded for a limited retrial on the two prior serious felony conviction allegations discussed in the body of this opinion. Upon the conclusion of that limited retrial, defendant is to be resentenced in compliance with the views expressed in this opinion.

Turner, P.J.

We concur: Grignon, J.
Godoy Perez, J.

B136854 People (Not for Publication)
v.
Donnell S.

The judgment is affirmed.

Godoy Perez, J.

We concur: Turner, P.J.
 Armstrong, J.

DIVISION FIVE (Continued)

B129357 People (Not for Publication)
v.
Filomeno Garcia

The abstract of judgment shall be modified to reflect the imposition of a 10-year enhancement pursuant to Penal Code section 12022.53. In all other respects, the judgment is affirmed.

Godoy Perez, J.

We concur: Grignon, Acting P.J.
Armstrong, J.

B132363 Kenneth Tab (Not for Publication)
v.
Avis Rent-A-Car System et al.

The judgment is affirmed. Respondent(s) to recover costs.

Armstrong, J.

We concur: Turner, P.J.
Godoy Perez, J.

B137679 Los Angeles County, D.C.F.S. (Not for Publication)
v.
Darlene T.
In re Misty M.

The judgment is affirmed.

Armstrong, J.

We concur: Turner, P.J.
Godoy Perez, J.

DIVISION SIX

B137583 Kafader et al. (Not for Publication)
 v.
 USAA Casualty Insurance Company

We reverse and remand the case to the trial court for a trial of the issue of whether Kafader's liability to Phinney is covered by the USAA insurance policy. The factual findings in the arbitration have no collateral estoppel effect on the adjudication of coverage. The parties shall bear their own costs on appeal.

Gilbert, P.J.

We concur: Yegan, J.
 Coffee, J.

B133910 People (Not for Publication)
 v.
 McBath

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
 Perren, J.

B128464 People (Not for Publication)
 v.
 Bartolon

The judgment is reversed and the cause is remanded to the trial court. That court is directed, upon motion of appellant within 30 days of the finality of this opinion, to vacate the guilty plea and reinstate all charges. Should appellant not do so, or should waive his right to do so, the trial court is directed to reinstate the judgment.

Yegan, J.

We concur: Gilbert, P.J.
 Perren, J.

July 20, 2000-Continued

DIVISION SIX (Continued)

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The judgment is affirmed.

Gilbert, P.J.

We concur: Coffee, J.
Perren, J.

B136358 McCullah (Certified for Publication)
v.
Southern California Gas Company

The judgment (order denying class certification) is affirmed. Gas Company is awarded costs on appeal.

Yegan, J.

We concur: Gilbert, P.J.
Perren, J.

B131838 People (Not for Publication)
v.
Malo

The judgment of conviction is modified to reduce the stayed sentence for violation of former section 23182 of the Vehicle Code from two years to one year. The judgment is affirmed in all other respects.

Perren, J.

We concur: Yegan, Acting P.J.
Coffee, J.

July 20, 2000-Continued

DIVISION SIX (Continued)

B134988 People (Not for Publication)
v.
Espinoza

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

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The judgment is affirmed.

Coffee, J.

I concur: Gilbert, P.J. (Opinion)
I dissent: Yegan, J. (Opinion)